

Introduced by Senator Watson

February 20, 1998

An act to amend Section 120440 of the Health and Safety Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 2222, as introduced, Watson. Immunizations: disclosure of information.

Existing law governing communicable disease prevention and immunization authorizes local health officers to operate immunization information systems. Existing law provides that certain health care providers, as defined, local health departments operating countywide immunization information and reminder systems, and the State Department of Health Services may disclose or share certain prescribed immunization-related information concerning individual patients, unless the patient refuses to consent to the sharing of this information. Existing law requires the health care provider administering immunization to provide the patient with designated notice.

This bill would expand the definition of health care provider for purposes of these provisions. The bill would authorize local health departments and the State Department of Health Services to disclose certain immunization information to schools, child care facilities, and family child care homes, service providers, as defined, and health care plans. The bill would subject health care providers, local health departments, the department, and certain persons or entities authorized to receive the immunization information to civil

action and criminal penalties for the wrongful disclosure of the information. The bill would create a new crime, thereby imposing a state-mandated local program. The bill would revise the notice requirement of the health care provider administering immunization under these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares
2 all of the following:

3 (1) Early childhood immunizations are essential to
4 protect the health of California children, yet a substantial
5 proportion of children do not receive timely standard
6 immunizations.

7 (2) In response to this problem, since fiscal year
8 1995–96, the Governor has proposed, and the Legislature
9 has approved, an appropriation of 3.5 million dollars
10 (\$3,500,000) in each budget year for the implementation
11 of immunization tracking systems.

12 (3) Communitywide immunization tracking systems
13 maintain current immunization records, including
14 records of severe immunization reactions, on all children.
15 This information is used to immediately provide
16 physicians with complete immunization histories of new
17 patients who come into their offices, to issue reminder
18 notifications to families when immunizations are due, and
19 to identify subpopulations of children with low
20 immunization coverage.

21 (4) Because of the importance of these systems, the
22 Legislature enacted legislation authorizing local health
23 departments and the State Department of Health
24 Services to operate communitywide immunization

1 tracking systems and allowing physicians to regularly
2 input patient identification and immunization history
3 information to these systems, provided that the patient
4 has been notified in advance and does not object.

5 (5) Schools and child care facilities are mandated by
6 law to require certain immunizations for attendance and
7 to obtain and maintain immunization records on their
8 pupils and clients. When a family has lost immunization
9 records, it can be difficult and time consuming for them
10 and their health care providers to obtain the necessary
11 records in order that their children may be admitted to
12 these institutions.

13 (6) Women, infants and children supplemental
14 nutrition (WIC) programs serve infants and young
15 children who are at highest risk of underimmunization.
16 Reviewing client immunization status at WIC service
17 sites and referring behind schedule infants and children
18 to their physicians for immunization has been shown to
19 substantially increase immunization coverage, without
20 restricting any WIC program benefits to families. Several
21 WIC service sites in California perform this activity, using
22 state or federal funds. However, WIC staff cannot assess
23 immunization records if clients fail to provide them, or if
24 the records they provide are incomplete.

25 (7) Health care plans are required to provide standard
26 childhood immunizations as benefits. These plans need
27 updated information on immunizations received by
28 beneficiaries both to facilitate payments to health care
29 providers and to assess how well their clients are
30 immunized. Lack of ready access to complete current
31 immunization records of their clients impedes these
32 functions.

33 (8) Schools, child care facilities, WIC service sites, and
34 health care plans in California all have well established
35 procedures for maintaining the confidentiality of client
36 immunization histories and are liable for civil and
37 criminal penalties for their inappropriate disclosure.

38 (b) In light of all the findings set forth in subdivision
39 (a), in enacting this legislation, it is the intent of the
40 Legislature to help infants and children receive

1 immunizations in a more timely manner through
2 immunization tracking systems providing appropriate
3 information to specified agencies and entities serving
4 these clients.

5 SEC. 2. Section 120440 of the Health and Safety Code
6 is amended to read:

7 120440. (a) For the purposes of this chapter, ~~“health~~
8 *the following definitions shall apply:*

9 (1) “Health care provider” means any person licensed
10 pursuant to Division 2 (commencing with Section 500) of
11 the Business and Professions Code *or a clinic or health*
12 *facility licensed pursuant to Division 2 (commencing*
13 *with Section 1200). “Health care provider” also means*
14 *schools, child care facilities, family child care homes,*
15 *women, infants, and children nutrition service providers,*
16 *as defined in paragraph (3), and health care plans that*
17 *provide immunization to patients.*

18 (2) “Schools, child care facilities, and family child care
19 homes” means those institutions referred to in
20 subdivision (b) of Section 120335.

21 (3) “Women, infants, and children service provider”
22 means any public or private nonprofit agency contracting
23 with the department to provide supplemental nutrition
24 program services to women, infants, and children.

25 (4) “Health care plan” means a health care service
26 plan as defined in subdivision (f) of Section 1345 or an
27 insurer as described in Sections 10123.5 and 10123.55 of
28 the Insurance Code.

29 (b) Local health officers may operate immunization
30 information systems pursuant to their authority under
31 Section 120175, in conjunction with the Immunization
32 Branch of the State Department of Health Services.

33 (c) Notwithstanding any other provision of law, unless
34 a refusal to permit recordsharing is made pursuant to
35 subdivision (e), health care providers may disclose the
36 information set forth in paragraphs (1) to (9), inclusive,
37 from the patient’s medical record to local health
38 departments operating countywide immunization
39 information and reminder systems and the State
40 Department of Health Services. Local health

1 departments and the State Department of Health
2 Services may disclose the information set forth in
3 paragraphs (1) to (9), inclusive, to other local health
4 departments and health care providers taking care of the
5 patient, *schools, child care facilities, and family child care*
6 *homes to which the person is being admitted or in*
7 *attendance, and women, infants, and children service*
8 *providers and health care plans providing services,* upon
9 request for information pertaining to a specific person.
10 All of the following information shall be subject to this
11 subdivision:

12 (1) The name of the patient and names of the patient's
13 parents or guardians.

14 (2) Date of birth of the patient.

15 (3) Types and dates of immunizations received by the
16 patient.

17 (4) Manufacturer and lot number for each
18 immunization received.

19 (5) Adverse reaction to immunizations received.

20 (6) Other nonmedical information necessary to
21 establish the patient's unique identity and record.

22 (7) Current address and telephone number of the
23 patient and the patient's parents or guardians.

24 (8) Patient's gender.

25 (9) Patient's place of birth.

26 (d) (1) Health care providers, local health
27 departments, and the State Department of Health
28 Services shall maintain the confidentiality of information
29 listed in subdivision (c) in the same manner as other
30 medical record information with patient identification
31 that they possess, ~~and. They shall be subject to civil action~~
32 ~~and criminal penalties for the wrongful disclosure of the~~
33 ~~information listed in subdivision (c) as described in~~
34 ~~Sections 56.35 and 56.36 of the Civil Code. They shall use~~
35 ~~the information listed in subdivision (c) only for the~~
36 following purposes:

37 ~~(1)–~~

38 (A) To provide immunization services to the patient,
39 including issuing reminder notifications to patients or
40 their parents or guardians when immunizations are due.

1 ~~(2)~~—

2 (B) To provide or facilitate provision of third-party
3 payer payments for immunizations.

4 ~~(3)~~—

5 (C) To compile and disseminate statistical information
6 of immunization status on groups of patients or
7 populations in California, without patient identifying
8 information for these patients included in these groups or
9 populations.

10 (2) *Schools, child care facilities, family child care*
11 *homes, women, infants, and children service providers,*
12 *and health care plans shall maintain the confidentiality of*
13 *information listed in subdivision (c) in the same manner*
14 *as other client and pupil information that they possess.*
15 *They shall be subject to civil action and criminal penalties*
16 *for the wrongful disclosure of the information listed in*
17 *subdivision (c) as described in Sections 1798.53 and*
18 *1798.57 of the Civil Code. They shall use the information*
19 *listed in subdivision (c) only for those purposes provided*
20 *in subparagraphs (A) to (C), inclusive, of paragraph (1)*
21 *and as follows:*

22 (A) *In the case of schools, child care facilities, and*
23 *family child care homes, to carry out their responsibilities*
24 *regarding required immunization for attendance, as*
25 *described in Chapter 1 (commencing with Section*
26 *120325).*

27 (B) *In the case of women, infants, and children service*
28 *providers, to perform immunization status assessments of*
29 *clients and to refer those clients found to be due or*
30 *overdue for immunizations to health care providers.*

31 (e) A patient or a patient's parent or guardian may
32 refuse to permit recordsharing. The health care provider
33 administering immunization shall inform the patient or
34 the patient's parent or guardian of the following:

35 (1) The information listed in subdivision (c) may be
36 shared with local health departments, and the State
37 Department of Health Services. The health care provider
38 shall provide the name and address of the department or
39 departments with which the provider will share the
40 information.

1 (2) Any of the information shared ~~will~~ with local
2 health departments and the State Department of Health
3 Services shall be treated as confidential medical
4 information and shall be used only to share with health
5 care providers, schools, child care facilities, family child
6 care homes, women, infants, and children service
7 providers, and health care plans, upon request. These
8 providers, agencies, and institutions shall, in turn, treat
9 the shared information as confidential, and shall use it
10 only to help provide immunization services to the
11 patient, ~~or~~ to issue reminder notifications to the patient
12 or patient's parent or guardian if immunizations are due
13 or overdue, *or, in the case of schools, child care facilities,*
14 *and family child care homes, to help children document*
15 *receipt of immunizations required by state law for*
16 *attendance.*

17 (3) The patient or patient's parent or guardian has the
18 right to examine any immunization-related information
19 shared in this manner and to correct any errors in it.

20 (4) The patient or the patient's parent or guardian
21 may refuse to allow this information to be shared in the
22 manner described, or to receive immunization reminder
23 notifications at any time, or both.

24 (f) If the patient or patient's parent or guardian
25 refuses to allow the information to be shared, pursuant to
26 paragraph (4) of subdivision (e), the health care provider
27 shall not share this information in the manner described
28 in subdivision (c).

29 (g) Upon request of the patient or the patient's parent
30 or guardian, in writing or by other means acceptable to
31 the recipient, a local health department or the State
32 Department of Health Services that has received
33 information about a person pursuant to subdivision (c)
34 shall do all of the following:

35 (1) Provide the name and address of other persons or
36 agencies with whom the recipient has shared the
37 information.

38 (2) Stop sharing the information in its possession after
39 the date of the receipt of the request.

1 (h) Upon notification, in writing or by other means
2 acceptable to the recipient, of an error in the information,
3 a local health department or the State Department of
4 Health Services that has information about a person
5 pursuant to subdivision (c) shall correct the error. If the
6 recipient is aware of a disagreement about whether an
7 error exists, information to that effect may be included.

8 (i) Section 120330 shall not apply to this section.

9 SEC. 3. No reimbursement is required by this act
10 pursuant to Section 6 of Article XIII B of the California
11 Constitution because the only costs that may be incurred
12 by a local agency or school district will be incurred
13 because this act creates a new crime or infraction,
14 eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section
16 17556 of the Government Code, or changes the definition
17 of a crime within the meaning of Section 6 of Article
18 XIII B of the California Constitution.

19 Notwithstanding Section 17580 of the Government
20 Code, unless otherwise specified, the provisions of this act
21 shall become operative on the same date that the act
22 takes effect pursuant to the California Constitution.